

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
OCTOBER 1, 1996**

The one thousand seven hundred and fifty-second meeting of the Milwaukie City Council was called to order by Mayor Lomnicki at 7:00 p.m. in the Council Chambers at Milwaukie City Hall. The following Councilors were present:

Mayor Lomnicki,  
Mayor  
Rick Farley

Jean Schreiber  
Rob Kappa  
Don Trotter

Also present:

Dan Bartlett,  
City Manager  
Pam Beery,  
City Attorney  
Charlene Richards,  
Assistant to the  
City Manager

Angus Anderson,  
Finance Director  
Mike Swanson,  
Interim Administrative Manager  
Randy Brown,  
Fire Lieutenant

**PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**

**Recognition of Off-going Board and Commission Members**

**Mayor Lomnicki** recognized those off-going board and commission members in the audience: John Siefer, Budget Committee; Terry LaRocque, Park and Recreation Board, and Michael Kay, Citizens Utility Advisory Board. Also recognized but not present were: Sandy Newman, Park and Recreation Board; Tom Alford, Citizens Utility Advisory Board; Pat Lent, Budget Committee; Gregg Newstrand and Tim Deeks, Historic Resources Commission; and Marian McEnnerey, Library Board. He thanked all for their support of the City of Milwaukie through its advisory board and commission program.

**Fire Prevention Week**

**Brown** discussed the joint efforts of the Milwaukie Fire Department and South Metro Fire Marshal's Office in checking and installing smoke detectors.

**Mayor Lomnicki** read a proclamation naming the week of October 6 - 12, 1996, as *Fire Prevention Week* in the City of Milwaukie.

## **Crime Prevention Month**

**Mayor Lomnicki** read a proclamation naming the month of October 1996 as *Crime Prevention Month* in the City of Milwaukee.

## **CONSENT AGENDA**

**It was moved by Councilmember Schreiber and seconded by Councilmember Farley to correct the motion on page six regarding the Historic Resources Commission bylaws to include "as amended by Councilmember Trotter." Motion passed unanimously.**

**It was moved by Councilmember Kappa and seconded by Councilmember Trotter to approve the Consent Agenda which consisted of the minutes of the September 17, 1996, City Council meeting with the correction. Motion passed unanimously.**

## **AUDIENCE PARTICIPATION**

None.

## **PUBLIC HEARING**

None scheduled.

## **OTHER BUSINESS**

### **LID Assessment Status Report**

**Anderson** presented the staff report in which he updated the City Council on special assessment lien collection activity and requested direction from the City Council. The number of delinquent accounts has been reduced from twenty-two to eleven since April 16, 1996. He reviewed the status of various liens and the work being done with Tashman and the assessor's office.

**Councilmember Kappa** commented the collection activity seemed to be on-line, and he was willing to wait for Tashman's report on the Palm property.

**Councilmember Farley** asked for clarification of the 1992 taxes paid on the Stransky property. Can the property owner continue to pay in this manner? **Anderson** said the City has perfected its lien in the event the property is sold, but, if the property is not sold, the City's situation will not change.

**Councilmember Farley** asked about the interest rate. **Anderson** responded the rates on special assessments was generally about 6%.

**Mayor Lomnicki** asked when the Tashman report would be complete. **Bartlett** said the report would be discussed in executive session.

**It was City Council consensus to direct staff to continue with the current method of collection.**

### **Fire-Rescue Apparatus Bid Award**

**Anderson** presented the staff report in which the City Council was requested to consider bids for a fire-rescue apparatus and award the contract to Oregon Fire Equipment Company in the amount of \$154,269.

**Anderson** referred to a memo dated October 1, 1996, regarding rejection of individual bid on the basis that the bid from Mays Emergency Equipment was non-responsive. The recommendation to reject the bid was based on Oregon purchasing laws (OAR 125-30-004(2)(e) and OAR 137-30-100(2)(c)). In addition to the unclear language in the original bid regarding compliance with 1996 standards, there were other factors which could lead to rejection. The request for bids (RFB) contained specifications not addressed by Mays. A hydraulic ladder rack was not included, and the bid was for a Freightliner FL-70 instead of the FL-80 or equivalent that was clearly stated in the RFB.

**Councilmember Trotter** said it seemed the rejection of the bid had nothing to do with the price. **Anderson** said that was correct, and rejection was based on a non-responsive bid.

**Councilmember Farley** commented Mays' bid had not mentioned a local service center. **Anderson** said Mays had bid on a Smeal engine, and there was a concern about ability to service since there were no others in Oregon. The reasons for rejection were, however, the two non-responsive issues previously discussed.

**Councilmember Farley** said it appeared from Mays' letter that it was his contention he should be awarded the bid although the specifications of the RFB were not followed. **Anderson** said the actual legal bid is what is on the paper when the bid is opened at the designated time.

**Councilmember Schreiber** asked if there was a legal question. **Beery** said, if City Council supports staff's recommendation to reject the bid, it should adopt written findings as prepared by staff and award the bid to Oregon Fire Equipment.

**It was moved by Councilmember Kappa and seconded by Councilmember Farley to suspend City Council rules to consider rejection of the Mays Emergency Equipment bid. Motion passed unanimously.**

**It was moved by Councilmember Kappa and seconded by Councilmember Trotter to reject the bid for a fire-rescue engine submitted by Mays Emergency Equipment based on a finding by staff that the bid is non-responsive to the issued bid specification. Motion passed unanimously.**

**Anderson** reviewed the bids which were formally opened on Friday, September 13, 1996. The bids were reviewed against the specifications listed, and the department recommends that City Council accept the bid from Oregon Fire Equipment for a KME engine.

**Councilmember Farley** asked Brown if he felt the department could use a command car with the unused funds. **Brown** said the current vehicle is not reliable.

**Councilmember Trotter** asked if the City would get the \$2,419 credit mentioned in item #4 of the bid comparison sheet. **Anderson** said the City would pay for the chassis at the time of delivery and would be eligible for the credit.

**Bartlett** suggested the motion for acceptance could be based on the certain conditions as outlined by Interim Administrative Manager Swanson.

**Swanson** said there would be a change of members in the Acceptance Team.

**It was moved by Councilmember Schreiber and seconded by Councilmember Trotter to award the bid to Oregon Fire Equipment Co., in an amount not to exceed \$154,269 to purchase a 1997 KME Fire-Rescue Engine based on the acceptance conditions, with the amendment to paragraph #4 regarding designation of certain employee members to the Acceptance Team, as outlined by Interim Administrative Manager Swanson.**

**Councilmember Kappa** asked if the equipment would meet the needs of the department. **Brown** confirmed that it would. **Councilmember Kappa** asked if there would be a need for additional equipment. **Brown** said a five-inch hose is needed.

**Bartlett** said a majority of the necessary equipment is either within the officers' or his own signature limits. The budget includes funds for replacement of worn equipment.

**Motion passed unanimously.**

## **Consider Sara Hite Memorial Rose Garden Fee Waiver Request**

**Bartlett** presented the staff report in which the City Council was requested to consider building permit fee waivers for the Sara Hite Memorial Rose Garden. The Friends of the Center are asking building permit fees be waived. Staff does not have the authority to waive these fees, so it must be a City Council decision. Building and planning functions are paid for in part by these permit fees, and a waiver would result in using general funds to replace the amount of the fees. Additionally, a percentage of the building permit fees goes to the state to pay for supervision of the permit program. Based on the practice of requiring public and non-profit agencies to pay permit fees, staff recommends charging fees as established by resolution.

**Councilmember Trotter** said from information in the September 5, 1996, work session, Council learned this was a three- to five-year phased project. He asked if the Friends were applying for fee waivers for the entire process or just the first phase. He asked if there was an idea of the entire permit fee amount. **Bartlett** said the Friends are asking for a waiver of all fees, and it would be difficult at this time to determine the entire amount of the request. He discussed how the City of Milwaukie contracted with Clackamas County for inspections of the Public Safety Building.

**Councilmember Kappa** asked if the building official still had the ability to waive the fees. **Bartlett** said the building official is only authorized to waive *de minimus* fees. He discussed SDC fees such as water connection.

**Councilmember Farley** asked who owned the property since the ultimate improvement will add value to the property. **Bartlett** said the City is the property owner. If the fees are waived, the Building Division will have to bear the burden.

**Councilmember Schreiber** asked if staff planned to prepare a recommended fee waiver policy. **Bartlett** said this issue has been debated in the past, but it is difficult to establish clear and objective standards. **Councilmember Schreiber** said these improvements appear to be a gift to the City. **Bartlett** said the Parks District and the City do business as separate entities. The departments need fees to cover operational costs in addition to paying the percentage to the state. He added similar issues have arisen with Milwaukie High School and Providence Milwaukie.

**Roald Berg**, Rose Garden Committee Chair, spoke on behalf of the Friends of the Center. The Friends are doing the work and improving the City's property.

**Bartlett** said the building trade has put pressure on departments to be self-balancing rather than using development fees to enhance the general fund. For example, plumbing and electrical are self-balancing in that fees are used to pay the wages of the inspectors.

**Berg** said the fees will be at least \$700, and he suggested a work program to offset some of the fees. **Mayor Lomnicki** said there was not precedent to waive the fees, and the City does not do so for its own projects.

**Daisa Lawson** spoke on behalf of the Friends and its request. The Public Safety Building was a different matter in that it was voted on by the entire community. The Rose Garden is being supported by North Clackamas County. She urged the City Council to help with the project since it is City property.

**Councilmember Kappa** asked if there was any idea of how and when the phases of the project would take place. **Bartlett** said he did not know, and staff would have to see what work is proposed with each phase.

**It was moved by Councilmember Kappa and seconded by Councilmember Farley to suspend the permit fees for Phase 1 of the Sara Hite Memorial Rose Garden.**

**Councilmember Trotter** said he generally agreed with Lawson, but he was concerned with setting a precedent for any non-profit wishing to build on public property. He was particularly concerned about the remaining phases of the project, since it would be difficult to waive this fee and not expect the group to return in the future. He indicated he would not support this motion.

**Councilmember Schreiber** suggested looking at an alternative to fee waivers and recommended a concept of using public money to carry out park improvements such as this.

**Mayor Lomnicki** felt the idea of establishing a funding mechanism through the Parks District budget to improve parks and their infrastructure was a sound one. He said he had a problem with setting a precedent of waiving fees without clear, objective standards.

**Councilmember Schreiber** discussed a concept of public contributions for public spaces. Mayor Lomnicki agreed with that logic to improve public spaces.

**Councilmember Kappa** suggested the City Council can handle waiver requests on a case-by-case basis and added he did not feel the argument that many people would request fee waivers was particularly valid. He felt the Rose Garden was a significant contribution to the community and the park system, and the City should do what it can to help.

**Councilmember Trotter** concurred with Schreiber's suggestion. He felt looking at the issue as a park improvement was a good idea. He had concerns about waiving the permit fees for all phases of the project at this time since they could go up substantially.

**Councilmember Schreiber** expanded her suggestion to include encouraging and accepting gifts for not only parks but also for the library.

**Councilmember Farley** felt the City could find a way to make a donation to support the enhancement of a City-owned property. He said the City should give the Center money.

**Mayor Lomnicki** wanted to make it clear that no member of the Council felt this project would not benefit the City. He felt it was important, however, to support the projects appropriately, and he supported Schreiber's recommendation of developing public improvement and contribution policies.

**Councilmember Trotter** understood construction would take place about May 1997. He felt the City Council would resolve the issues by that time, and he indicated he did not feel it was appropriate to flatly waive the permit fees.

**The motion to suspend the permit fees for Phase 1 of the Sara Hite Memorial Rose Garden failed 2 - 3 with the following vote: Councilmember Farley and Councilmember Kappa aye; Mayor Lomnicki, Councilmember Schreiber, and Councilmember Trotter nay; no abstentions.**

**It was moved by Councilmember Schreiber and seconded by Councilmember Trotter to direct staff to develop in three-months' time an outline of a procedure the City Council can use to encourage donations to the public lands and a way to provide support for that.**

**Councilmember Kappa** asked if staff would be preparing policy options that would address the general concept but not be specific to this particular issue. **Mayor Lomnicki** said it would be a general policy.

**Motion passed 5- 0.**

**It was moved by Councilmember Trotter and seconded by Councilmember Kappa to direct staff to have the Park and Recreation Board review our budgeting process for our Neighborhood Districts and see if we can allocate funding to cover the cost of permit fees for Phase 1 of the Sara Hite Memorial Rose Garden.**

**Councilmember Trotter** said, as Schreiber commented, this is an improvement to a park in our system. The Milwaukie Park and Recreation Board recommends to City Council, as the Neighborhood Board, how this money should be allocated. The intent of the motion was to have the Park and Recreation Board review the budget for this year; and if there is funding to reallocate to this project, make a recommendation to the City Council.

**Councilmember Farley** asked if this would have to be on a priority list.

**Councilmember Trotter** said it is done on a budgetary basis. Some projects have been done, and there might still be some funds left to reallocate. If there are no funds remaining, it could be considered in the 1997 - 1998 District Budget.

**Councilmember Kappa** said he would not like to see this project displace others.

**Councilmember Schreiber** asked the motion be amended to reflect participation in development of that particular feature of that park and not be tied to the fee issue. It was a friendly amendment agreed to by the group.

**Councilmember Farley** asked if the priority list was made up of a multiple-year priority list. **Councilmember Trotter** said the priority list is developed annually and reviewed for multiple years. This project, to his knowledge, was not discussed during the budgetary cycle and seen as a possibility. He felt this concept had a lot of potential, and he felt it should go to Park and Recreation Board for review and recommendation to the City Council.

**The motion to direct staff to have Park and Recreation Board review the budgeting process for the Neighborhood Districts with the friendly amendment that it was not tied to fee waivers but to participation in the Sara Hite Memorial Rose Garden project passed unanimously.**

#### **Consider Three Cities Agreement Review**

**Bartlett** presented the staff report in which the City Council was requested to direct the Mayor, City Manager, and Community Development Director to begin a periodic review of the agreement between Milwaukie, Happy Valley, and Gladstone commonly referred to as the Three Cities Agreement. The Agreement was signed in 1988 and helped the cities involved negotiate the Urban Growth Management Agreement with Clackamas County. The document should have undergone a review in 1993 and is now limiting needed discussion between city, county, and special district participants. He discussed the effects of SB 122 on local government planning activities.

**Councilmember Kappa** asked Bartlett what he wanted to achieve since the ORS 195 process has not been completed. **Bartlett** said the ORS 195 process will result in urban service agreements that may supersede this document in certain ways. We may want to have open discussions with special districts and the county which the Three Cities Agreement may limit. Elements have changed since 1988 that dictate a review.

**Councilmember Trotter** felt the agreement was very limiting and, with the definition of specific boundaries, was counterproductive to ORS 195 guidelines.

**Councilmember Schreiber** felt it was appropriate to come to closure with this agreement and look at what has or has not been accomplished.

**It was moved by Councilmember Kappa and seconded by Councilmember Farley to direct the Mayor, City Manager, and Community Development Director to meet**



**with representatives of Happy Valley and Gladstone to complete the first periodic review of this agreement. Motion passed unanimously.**

### **November 1996 Ballot Measures**

**Mayor Lomnicki** discussed 1996 Ballot Measures. Individual Councilmembers discussed and distributed information at the work session on issues he or she felt were of concern to Milwaukie.

**Councilmember Schreiber** said City Council focused concern on City issues or those that impacted this community.

**Councilmember Trotter** said City Council is not indicating these are the only ballot measures important to the residents of the City of Milwaukie.

**It was moved by Councilmember Trotter and seconded by Councilmember Kappa to adopt a resolution supporting Ballot Measure 32 -- Light Rail funding.**

**Councilmember Farley** said he did not support Ballot Measure 32 because it would make Milwaukie a neighborhood instead of a city.

**Mayor Lomnicki** felt the third alternative alignment gives great promise for providing connection with the regional transit system and the downtown area while impacting the neighborhoods less. He added he felt the City Council should support Ballot Measure 32 based on its previous voting history.

**Councilmember Schreiber** said City Council believes in good transportation planning, and this measure provides funding to the entire state.

**Motion passed 4 - 1 with the following vote: Mayor Lomnicki, Councilmember Schreiber, Councilmember Kappa, and Councilmember Trotter aye; Councilmember Farley nay; and no abstentions.**

**It was moved by Mayor Lomnicki and seconded by Councilmember Kappa to oppose Ballot Measures 45 (Public employee retirement age) and 47 (cut and cap) and support Ballot Measure 44 (cigarette and tobacco tax increase). Motion passed unanimously.**

## **Fire Department Command Car**

**Councilmember Farley** said he felt the City Council should consider a new Fire Department command car at its next meeting. **Mayor Lomnicki** said these types of issues are generally discussed during the budget process and suggested it be discussed with Swanson.

## **Televised Work Sessions**

**Councilmember Kappa** discussed televising City Council work sessions.

**Councilmember Trotter** concurred this should at least be discussed at a work session in the next few months. **Bartlett** said the earliest date it could be scheduled for discussion was December 3.

## **INFORMATION**

1. **Councilmember Trotter** reported attending the Annual American Legion Fire Fighter and Police Officer of the Year Banquet. Captain Wes Johns and Officer Dan Cloyes were honored this year.
2. **Councilmember Kappa** discussed the Johnson Creek Watershed Council Riparian Project behind OLCC.
3. **Mayor Lomnicki** said he attended the Community Solution Project in which Milwaukie was one of four cities designated to work in partnership with state agencies to develop and implement solutions to locally identified problems.
4. **Bartlett** reported on an incident at the last Milwaukie home football game. A firearm was discharged at a parking lot across the street from the stadium. Federal police money will be used to increase the presence of officers at the next home game. He considered it a significant community issue, and he indicated he would be calling in regional partners.

**Mayor Lomnicki** announced the City Council would hold an executive session pursuant to ORS 192.660 to discuss real property immediately following adjournment of the regular session.

**Mayor Lomnicki** adjourned the meeting at 8:58 p.m.

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Pat DuVal, Recorder/Secretary

## **EXECUTIVE SESSION**